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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/821,434	03/28/2001	Koji Fujiyama	4970/OJ035	1759
7278	7590	12/20/2005	EXAMINER	
DARBY & DARBY P.C. P. O. BOX 5257 NEW YORK, NY 10150-5257			PATEL, GAUTAM	
			ART UNIT	PAPER NUMBER
			2656	

DATE MAILED: 12/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/821,434

Applicant(s)

FUJIYAMA, KOJI

Examiner

Gautam R. Patel

Art Unit

2656

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**Response to Amendment**

1. This is in response to amendment filed on 11-3-05.
2. claims 1-4 remain for examination.

**Claim Rejections - 35 U.S.C. § 102**

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4 are rejected under 35 U.S.C. § 102(b) as being anticipated by Kagami et al., US. patent 5,384,762 (hereafter Kagami).

As to claim 1, Kagami discloses the invention as claimed [see Figs. 1-5] including controlling means and transfer function holding means, comprising:

controlling means [fig. 1, unit 200] for performing seek control for moving said optical pickup to a target track on the optical disc and focus servo control of said optical pickup according to a detected focus error signal and a transfer function [col. 4, line 38 to col. 5, line 5]; and

transfer function holding means [fig. 1, unit 300] for holding a first transfer function for executing focus servo [col. 4, lines 3-26] when said controlling means does not perform said seek control [col. 2, lines 34-59; fig. 5A], and a second transfer function for executing focus servo when said controlling means performs said seek control [ABSTRACT; col. 2, lines 34-59; col. 4, line 50 to col. 5, line 37].

4. The aforementioned claim 2, recites the following elements, inter alia, disclosed in Kagami:

said second transfer function has smaller gain than the first transfer function and a phase margin capable of providing substantially same stability as that obtained by said first transfer function [col. 5, lines 14-58].

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5. As to claim 3, it is rejected for similar reasons set forth in the rejection of claim 1, supra.  
As to added limitation Kagami discloses:  
an optical pickup [fig. 2, units 30,38, 40 etc.]for writing data on to an optical disc [fig. 2, unit 100] and/or reading data form the optical disc [col.3, lines 23-53];
6. As to claim 4, it is rejected for same reasons set forth in the rejection of claim 1, supra.
7. Applicant's arguments filed on 11-3-05 have been fully considered but they are not deemed to be persuasive for the following reasons.

In the REMARKS, the Applicant argues as follows:

A) That: "Kagami does not disclose a focus servo control based upon a transfer function operated base upon whether a seek control is performed or not. Kagami discloses "a means for controlling the gain of focusing means in response to a seek velocity of an optical head" [page 2, paragraph 5; REMARKS].

FIRST: It seems that there is problem of semantics here.

SECOND: As one of ordinary skill in this art knows that the gain control is a transfer function.

THIRD: It has also been pointed in the paten application 10-2001-0016189 review on page 2, that "transfer holding means" can be also be called "respective means" and these are just different names pointing out the same thing. In other words changing name does not change what is being done. Also fig. 1, unit 44 performs exactly the same way seek control that is done by the present applicants in J.P.O Publication 08-273171 that was presented by the Applicants.

B)That; "Moreover, Kagami at col. 2, lines 34-59 and fig. 5a does not disclose a transfer function holding means for holding a first transfer function for executing focus servo when said controlling means does not perform said seek control .." [page 2, paragraph 5; REMARKS].

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FIRST: One again once we define 'Transfer function', which as explained above, is nothing more than gain control, because by definition gain is a transfer function, then everything becomes clear including unit 300 which holds gain control information.

SECOND: Now as not performing seek control is very well explained in the ABSTRACT of Kagami itself.

THIRD: Unit 200 is the one tat performs this seek control. See the signals SEEK/TRACKING and LOW GAIN/HIGH GAIN that are coming out f unit 200 [fig. 1].

8. **THIS ACTION IS MADE FINAL.** See M.P.E.P. § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

#### **Contact Information**

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gautam R. Patel whose telephone number is 571-272-7625. The examiner can normally be reached on Monday through Thursday from 7:30 to 6.

The appropriate fax number for the organization (Group 2650) where this application or proceeding is assigned is 703-872-9306.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Hoa Nguyen can be reached on (571) 272-7579.

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Any inquiry of a general nature or relating to the status of this application should be directed to the Electronic Business Center whose telephone number is 866-217-9197 or the USPTO contact Center telephone number is (800) PTO-9199.

A handwritten signature in black ink, appearing to read 'G.R.P.', with a stylized flourish extending from the end.

**GAUTAM R. PATEL  
PRIMARY EXAMINER**

Gautam R. Patel  
Primary Examiner  
Group Art Unit 2655

December 16, 2005